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2/19/07

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February 19, 2007

Delivered by Telecopy and Email

David Ledger
Carlsmith Ball LLP
134 West Soledad Avenue
Hagatna, Guam 96932
Saipan, MP 96950


Re: Fejeran v. Freedom Air

Dear David,

I hope you are well.

I attach a copy of the cases in which Dr. Perez has testified as an expert at trial or deposition within the last four years. George tells me he previously gave to you (or at least offered) the exhibits to be used by Dr. Perez which were photographs of his inspection. Boster, Kobashi was paid \$2,300 for their study / report.

Do you contend that we have failed to disclose anything else required by Rule 26 (a) (2)? If so, please let me know. Thank you.

Truly yours,

David G. Banes

att: as stated

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ED

David Banes

From: O'Connor Berman Dotts & Banes [attorneys@saipan.com]
Sent: Monday, February 19, 2007 4:04 PM
To: David G. Banes
Subject: Fw: Fejeran v. Freedom Air
Follow Up Flag: Follow up
Flag Status: Flagged

----- Original Message -----

From: David P. Ledger
To: attorneys@saipan.com
Cc: June M.C. Borja
Sent: Monday, February 19, 2007 4:01 PM
Subject: RE: Fejeran v. Freedom Air

David: I opened the letter and read it. The way I see it, what we are contending is that everything you have recently disclosed to us was actually due months ago. In particular, two months after Mr. Perez's inspection. This is without prejudice to the right to contend that what you have disclosed does not satisfy Rule 26 expert witness disclosures.

Though I know you have been sending certain expert witness items since we filed our motion to strike Perez, I have not yet seen a "final report" of Mr. Perez - by final report I mean a report which is in full compliance with Rule 26 expert witness disclosure requirements - opinions, facts, bases for opinions, items and resources consulted and relied upon, etc. If you contend you have sent such a report please direct me to it or re-send it. Only then would I be able to respond to your question concerning my position on whether or not your attempts at disclosure comply with Rule 26, but even then without prejudice to contending proper disclosure is months late. I expect you to say that Perez is unable to provide such a report without the discovery we are refusing to provide, but we have already discussed that "mexican stand-off", so to speak. You could have served such discovery shortly after Perez inspected the plane and a timely response by us would have permitted Perez to produce his report in the 2 months I contend we agreed to.

So perhaps what it boils down to is you contending that you have disclosed everything possible pending the discovery Perez says he needs, whereas we say he is not entitled to any discovery because his final report was due months ago and should not now be permitted at all, but rather should be struck.

In sum, though the recent bit-by-bit disclosure may be well-intended, prompted by our motion, and in your view meeting Rule 26, absent the final report required by the Rule we must respectfully disagree.

Last, and again without prejudice to our position, my secretary has checked our Frank Perez file and can not see any pictures taken by him. If George sent them I either did not receive/see them, or misplaced them.

Regards,

D. Ledger for Freedom Air.

From: attorneys@saipan.com [mailto:attorneys@saipan.com]
Sent: Tue 2/20/2007 9:07 AM
To: David P. Ledger
Cc: attorneys@saipan.com
Subject: Fejeran v. Freedom Air

2/22/2007